



## Licensing Act 2003 Committee

<b>Date:</b>	Wednesday, 28 October 2015
<b>Time:</b>	5.30 pm
<b>Venue:</b>	Committee Room 1 - Wallasey Town Hall

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### AGENDA

**1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Committee are asked to declare any disclosable pecuniary and non pecuniary interests, in connection with any application on the agenda and state the nature of the interest.

**2. MINUTES (Pages 1 - 2)**

To approve the accuracy of the minutes of the special meeting held on 7 July 2015.

**3. DRAFT STATEMENT OF POLICY UNDER THE GAMBLING ACT 2005 (Pages 3 - 52)**

**4. ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR**

To consider any other business that the Chair accepts as being urgent.

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## LICENSING ACT 2003 COMMITTEE

Tuesday, 7 July 2015

<u>Present:</u>	Councillor	WJ Davies (Chair)	
	Councillors	S Niblock G Davies B Kenny C Meaden T Norbury D Realey	D Roberts J Salter M Sullivan E Boulton D Burgess-Joyce G Ellis
<u>Apologies</u>	Councillors	A Hodson	P Williams

### 6 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Committee were asked to declare any disclosable pecuniary and non pecuniary interests in connection with any application on the agenda and state the nature of the interest.

No such declarations were made.

### 7 MINUTES

**Resolved – That the accuracy of the minutes of the meeting held on 2 June 2015 be approved.**

### 8 DRAFT STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005

The Strategic Director of Regeneration and Environment sought Members' approval of the Draft Statement of Principles under The Gambling Act 2005 in order that it may be circulated for consultation and a final Statement be presented to Council for approval on 14 December 2015.

The Licensing Manager reported that the Council has been the Licensing Authority responsible for granting premises licence in Wirral since 1 September 2007 and also had the responsibility for Gaming Machine Permits, Temporary Use Notices and Occasional Use Notices as well as the registration of Small Society Lotteries.

The Gambling Act 2005 required the Council to prepare and publish a statement of Licensing Principles that the Authority would apply when considering applications under the Act and it was a requirement that this Policy document be reviewed every three years. A revised Draft Statement of Licensing Principles was attached to the report which would be circulated for consultation if approved by Members.

The Licensing Manager responded to a number of questions from Members and agreed to attend to typographical amendments identified by Councillor Niblock.

Councillor Ellis referred to the title of the draft Statement and raised the question as to whether it should be referred to as the Draft Statement of Policy as opposed to the Draft Statement of Principles.

**It was moved by Councillor S Niblock and seconded by Councillor J Salter that**

**–**

“(1) The Draft Statement of Principles be changed to the Draft Statement of Policy.

(2) That the Draft Statement of Licensing Policy be approved as a document to be consulted upon so that a final statement can be considered by Council on 14 December 2015 for approval as the Statement of Policy to be applied under The Gambling Act 2005.

(3) That the words “and are encouraged by this Authority” be inserted into paragraph 27.4 of the Statement and that typographical amendments identified by Councillor Niblock be amended as appropriate.”

**Resolved –**

**(1) That the Draft Statement of Principles be changed to the Draft Statement of Policy.**

**(2) That the Draft Statement of Licensing Policy be approved as a document to be consulted upon so that a final statement can be considered by Council on 14 December 2015 for approval as the Statement of Policy to be applied under The Gambling Act 2005.**

**(3) That the words “and are encouraged by this Authority” be inserted into paragraph 27.4 of the Statement that typographical amendments identified by Councillor Niblock be amended as appropriate.**

## WIRRAL COUNCIL

### LICENSING ACT 2003 COMMITTEE

28 OCTOBER 2015

<b>SUBJECT:</b>	<b>DRAFT STATEMENT OF POLICY UNDER THE GAMBLING ACT 2005</b>
<b>WARD AFFECTED:</b>	<b>ALL WARDS</b>
<b>REPORT OF:</b>	<b>STRATEGIC DIRECTOR OF REGENERATION &amp; ENVIRONMENT</b>
<b>KEY DECISION?</b>	<b>NO</b>

#### **1.0 EXECUTIVE SUMMARY**

1.1 The purpose of this report is to seek Members approval of the Draft Statement of Policy under The Gambling Act 2005 in order that it may be presented to Council for approval on 14 December 2015.

#### **2.0 BACKGROUND AND KEY ISSUES**

2.1 The Gambling Act 2005 requires the Council to prepare and publish a statement of the principles to be applied when exercising its functions under this Act. The Statement of Principles is referred to in this report as the Council's Statement of Policy. It is a requirement that this policy document be reviewed every three years

2.2 The Council's Statement of Policy was first published in December 2006 and must therefore now be reviewed and published no later than December 2015.

2.3 On 7 July 2015, Members of the Licensing Act 2003 Committee approved a draft Statement of Policy so that it may be circulated for consultation.

2.4 The consultation period began on 13 July 2015 and closed on 13 October 2015.

2.5 The draft Statement of Policy has been circulated to a number of consultees and has been publicised on the Council's website. A list of consultees is attached in Appendix 1.

2.6 During the consultation period, one comment was received by the Licensing Authority. This was from Public Health who have suggested that paragraph 8.4 of the Policy be amended as highlighted in bold below:

'The Licensing Authority's decision making process will be informed by the local area profile and will have particular regard to the proximity of gambling premises to schools, **places where vulnerable adults frequent, areas of high levels of socio-economic deprivation and health inequalities**, residential areas where there is a high concentration of families with children and areas of the borough that are particularly attractive to children such as New Brighton'

2.7 The draft Statement of Policy is attached as Appendix 2.

### **3.0 RELEVANT RISKS**

3.1 There are none arising directly from this report.

### **4.0 OTHER OPTIONS CONSIDERED**

4.1 There is no provision for other options to be considered.

### **5.0 CONSULTATION**

5.1 The draft policy has been subject to consultation for a period of three months.

### **6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

6.1 There are no specific implications arising from this report.

### **7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

7.1 The costs incurred in undertaking this consultation will be recovered from Licence fees.

### **8.0 LEGAL IMPLICATIONS**

8.1 The Council is required to undertake a review of its Statement of Policy every three years.

### **9.0 EQUALITIES IMPLICATIONS**

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

Yes and impact review is attached.

### **10.0 CARBON REDUCTION IMPLICATIONS**

10.1 There are no specific implications arising from this report.

### **11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

11.1 There are no Planning implications arising from this report.

### **12.0 RECOMMENDATION**

12.1 That the Draft Statement of Policy be amended in accordance with the suggestion from Public Health.

12.2 That the Draft Statement of Policy, subject to this amendment, be recommended for approval by Council on 14 December 2015.

### **13.0 REASONS FOR RECOMMENDATION**

13.1 It is a statutory requirement for the Council to review and consult upon a revised Statement of Policy every three years.

**REPORT AUTHOR:**           **Richard Leyland**  
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### **APPENDICES**

- Appendix 1 – List of Consultees
- Appendix 2 – Draft Statement of Policy

### **REFERENCE MATERIAL**

None

### **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>Licensing, Health and Safety and General Purposes Committee</b>	<b>07/07/2015</b>

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## **Appendix 1 – List of Consultees**

This draft document is being circulated to a number of consultees including those listed below. Should you consider there are any other bodies or individuals who should be consulted please contact: [licensing@wirral.gov.uk](mailto:licensing@wirral.gov.uk)

- Elected Councillors, Wirral Council
- Head of Regeneration and Environment, Wirral Council
- Trading Standards Manager, Wirral Council
- Environmental Health Manager, Wirral Council
- Planning Officer, Wirral Council
- Local Safe Guarding Children Board
- Wirral Federation of Tenants and Residents Association
- The Gambling Commission
- The Chief Officer of Police
- The Fire and Rescue Authority
- H. M. Revenue & Customs
- Public Health
- Citizen's Advice Bureau
- The Bingo Association
- Association of British Bookmakers
- British Casino Association
- Casino Operators Association of the UK
- British Holiday & Home Parks Association
- British Beer & Pub Association
- Gaming Machine Suppliers
- All persons who hold a Betting Office Premises Licence
- All persons who hold a Bingo Premises Licence
- Amusement Arcades that hold Adult Gaming Centre and Family Entertainment Centre Premises Licences
- Representatives holders of various licences

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**Draft  
Statement of Policy  
Gambling Act 2005**

July 2015

**Wirral Licensing Authority  
Town Hall  
Brighton Street  
Wallasey  
CH44 8ED**

**0151 691 8043**



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**Appendix C – Responsible Authorities**



## **The Licensing Objectives**

In exercising most of their functions under the Gambling Act 2005, (The Act) Wirral Borough Council as the Licensing Authority must have regard to the following Licensing Objectives:

- **Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime**
- **Ensuring that gambling is conducted in a fair and open way**
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

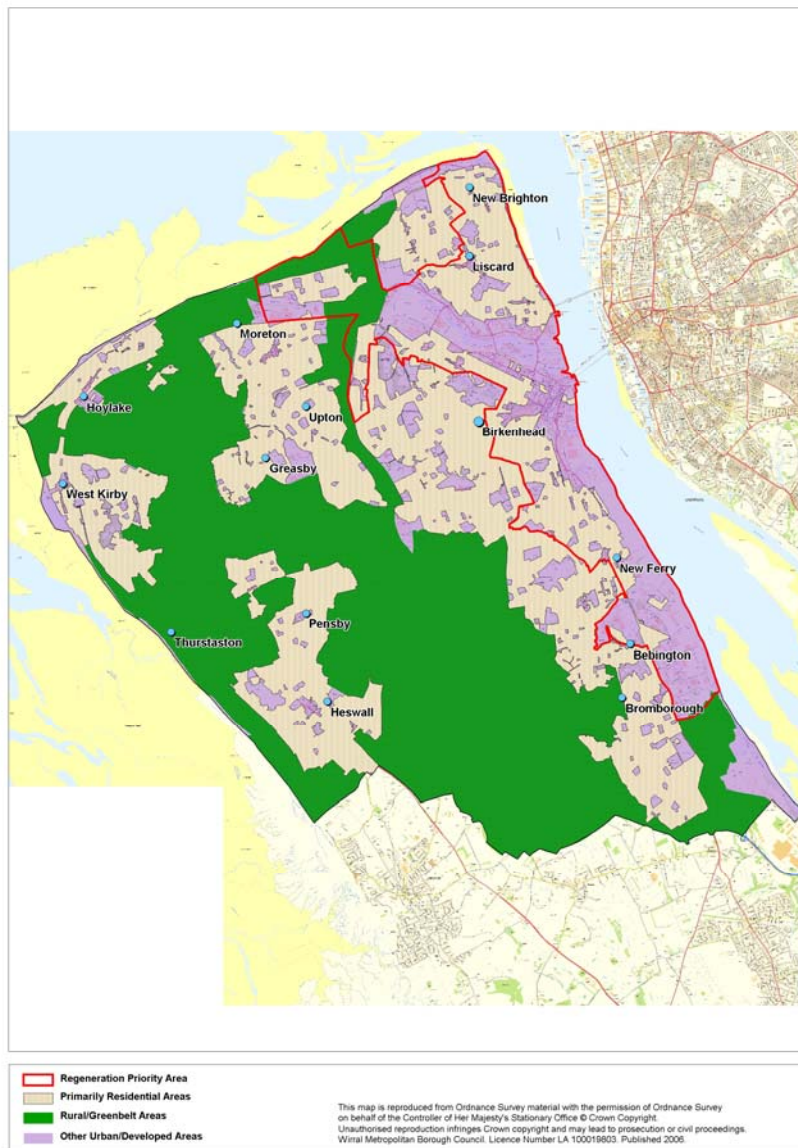
It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

This Licensing Authority is aware that in accordance with Section 153 of the Gambling Act 2005, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises so far as it thinks it is:

- In accordance with any relevant Code of Practice issued by the Gambling Commission
- In accordance with any relevant Guidance issued by the Gambling Commission
- Reasonably consistent with the Licensing Objectives in accordance with the Authority’s Statement of Licensing Principles.

## 1.0 Introduction

- 1.1 Wirral Borough Council is situated in the County of Merseyside, which contains no district Councils, but 5 metropolitan councils: Knowsley, Liverpool, Sefton, St Helens and Wirral. The Council area has a population of 319,800 (ONS 2010 midyear population estimates) making it the second largest after Liverpool in the County in terms of population. In terms of area it is the largest in Merseyside, covering 60.1 square miles. The Borough is mainly urban in outlook, with 32.85 square miles (54.66% of the borough) covered in Residential, Industrial or Commercial buildings.



The key provided identifies the urban / rural areas as well as regeneration priority areas.



- 1.2 Licensing Authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.
- 1.3 The Gambling Act 2005 requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police
  - One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority’s area
  - One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority’s functions under the Gambling Act 2005
- 1.4 A list of the persons that the Council has sent this document to for consultation is illustrated at **Appendix B**.
- 1.5 This draft statement of principles will be circulated to consultees and additional copies are available on our web site [www.wirral.gov.uk](http://www.wirral.gov.uk) as well as at the Town Hall, Brighton Street, Wallasey, Wirral, CH44 8ED.
- 1.6 Should you have any comments in respect of this policy statement please send them as follows:
- Wirral Licensing Authority  
Town Hall  
Brighton Street  
Wallasey  
Wirral  
CH44 8ED
- Email: [licensing@wirral.gov.uk](mailto:licensing@wirral.gov.uk)
- Fax: 0151 691 8215
- The closing date for comments on this draft policy statement is **13 October 2015**.
- 1.7 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.
- 1.8 In determining this policy, the Licensing Authority has had regard to the ‘Guidance issued to Licensing Authorities’ issued by the Gambling

Commission, and will give appropriate weight to the views of those it has consulted. In determining what weight to give particular representations, the factors to be taken into account will include:

- who is making the representations (what is their expertise or interest)
- relevance of the factors to the Licensing Objectives
- how many other people have expressed the same or similar views
- how far the representations relate to matters that the Licensing Authority should be including in its policy statement.

## **2.0 Declaration**

2.1 In producing the final statement, this Licensing Authority will have had regard to the Licensing Objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission, the Licensing Conditions & Codes of Practice and any responses from those consulted on the statement.

## **3.0 Responsible Authorities**

3.1 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group

3.2 In accordance with the suggestion in the Gambling Commission's Guidance for Local Authorities, this Authority designates the Wirral Safeguarding Children Board for this purpose.

3.3 Safeguarding children is a key priority for Wirral Council, and the Licensing Authority expects all licensees to have strict control measures in place to mitigate any risks to underage gambling. The Licensing Authority will consult with the Safeguarding Children Board in the development of our local area profile.

3.4 The Responsible Authorities under the Gambling Act 2005 are:

- Licensing, Wirral Borough Council
- The Gambling Commission
- The Chief Constable, Merseyside Police

- Merseyside Fire and Rescue Authority
- Planning, Wirral Borough Council
- Environmental Health Section, Wirral Borough Council
- Wirral Safeguarding Children Board
- H.M. Revenue & Customs (HMRC)

Subject to any other person being prescribed in Regulation by the Secretary of State. The contact addresses for these Authorities are illustrated at **Appendix C.**

#### **4.0 Interested Parties**

4.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person-

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities
- b) has business interests that might be affected by the authorised activities
- c) represents persons who satisfy paragraph (a) or (b)

4.2 The Licensing Authority is required by regulations to state the principles we will apply in exercising our powers under the Gambling Act 2005 to determine whether a person is an interested party.

4.3 When determining what ‘significantly close to the premises’ means the Licensing Authority will take into account:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises such as the number of customers, routes likely to be taken by those visiting the establishment
- the circumstances of the person who lives close to the premises. This is not the personal characteristics of the complainant, but their interests which may be relevant to the distance from the premises

The Licensing Authority may determine that 'sufficiently close to be likely to be affected' could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems, and (c) a residential hostel for vulnerable adults.

- 4.4 In determining whether there is a business interest the Licensing Authority will take into consideration the size of the premises, the catchment area of the premises and whether the person making the representation has a business interest in that catchment area that could be affected. The nature and scope of business interest that could be affected will also be taken into consideration.
- 4.5 In considering whether there is a business interest the Licensing Authority will consider business interests in its widest possible interpretation, to include partnerships, charities, faith groups and medical practices.
- 4.6 Interested parties can be persons who are democratically elected such as Councillors, M.P.'s etc. No specific evidence of being asked to represent an interested party will be required as long as the Councillor / M.P. etc. represents the Ward likely to be affected. Save for democratically elected persons, other representations may include bodies such as trade associations and trade unions, and residents' and tenants' associations. A School Head or Governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the premises. This Authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 4.7 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Department at the Town Hall, Brighton Street, Wallasey, CH44 8ED or email [licensing@wirral.gov.uk](mailto:licensing@wirral.gov.uk).

## **5.0 Exchange of Information**

- 5.1 The Licensing Authority recognises that shared regulation depends on effective partnership and collaborations. The exchange of information between the Commission and licensing authorities is an important aspect of that and to the benefit of both. Licensing authorities play a particular role in sharing information about gambling activity at a local level, which is important for the Commission's overarching view of gambling activity, not least because that enables the Commission to identify risks and feed information and intelligence back to licensing authorities. It also enables the Commission to fulfil its duty to advise the Secretary of State about the incidence of gambling and the manner in which it is conducted.

Section 29 of The Gambling Act 2005 enables the Commission to require information from Licensing Authorities, including the manner in which the information is compiled, collated and the form in which it is provided, providing that it:

- forms part of a register maintained under the Act
- is in the possession of the Licensing Authority in connection with a provision of the Act.

5.2 This Licensing Authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. We will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

5.3 Section 350 of The Gambling Act 2005 allows Licensing Authorities to exchange information with other persons or bodies for use in the exercise of functions under the Act. Those persons or bodies are listed in Schedule 6(1) as:

- a Constable or Police Force
- an Enforcement Officer
- a Licensing Authority
- HMRC
- the First Tier Tribunal
- the Secretary of State
- Scottish Ministers.

5.4 As a Licensing Authority we will maintain data on premises licences. As part of the application process for a premises licence, applicants will forward notice of the application to the Commission, and we will subsequently notify the Commission of the outcome of each application, whether it is granted or refused. The Act also requires licensing authorities to notify the Commission of other matters such as when a licence has lapsed or been surrendered, and the cancellation of certain permits and registrations. Under s.29 of the Act, the Commission has identified further information requirements that it is necessary for Licensing Authorities to provide, which form part of the Licensing Authority Return in the Single Data List.

5.5 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **6.0 Enforcement**

6.1 Licensing Authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the

powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.

6.2 This Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance for Local Authorities and will apply the principles of good regulation in accordance with the principles of better regulation and the Regulators' Code. This means that inspections and enforcement activities will be undertaken in accordance with the following principles:

- Proportionate: We will only intervene when necessary: remedies will be appropriate to the risk posed, and costs identified and minimised
- Accountable: We will justify our decisions and be subject to public scrutiny
- Consistent: Rules and standards will be joined up and implemented fairly
- Transparent: We will be open and transparent and keep regulations simple and user friendly
- Targeted: Regulation will be focused on the problem, and minimise side effects

6.3 In accordance with the Gambling Commission's Guidance for Local Authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

6.4 This Licensing Authority is developing a risk-based inspection programme, which will target high risk premises which require greater attention and will operate a lighter touch in respect of low risk premises. The criteria the Licensing Authority will use to determine the level of risk will include;

- The Licensing Objectives
- Relevant Codes of Practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of Licensing Policy
- The Local Area Profile of Wirral

6.5 The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the Enforcement Body for operating and personal licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

6.6 Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements will be available upon request at the Licensing Department, Town Hall, Brighton Street, Wallasey CH44 8ED and on the Council Website – [www.wirral.gov.uk](http://www.wirral.gov.uk).

6.7 In accordance with the Regulators Code this Licensing Authority has produced an Enforcement Policy which is available upon request at the Licensing Department, Town Hall, Brighton Street, Wallasey CH44 8ED and on the Council Website – [www.wirral.gov.uk](http://www.wirral.gov.uk).

## **7.0 Licensing Authority Functions**

7.1 Licensing Authorities are required under the Act to:

- Be responsible for the Licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate Members' Clubs and Miners' Welfare Institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register Small Society Lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued
- Maintain registers of the permits and licences that are issued under these functions

## **8.0 Allocation of Decision Making Responsibilities**

8.1 The Licensing Authority is involved in a wide range of licensing decisions and functions which will be administered by the Licensing Act 2003 Committee and Sub-Committees thereof.

- 8.2 Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example, those licences and permits where no representations have been made, is delegated to Council Officers.
- 8.3 The table shown at **Appendix A** sets out the agreed delegation of decisions and functions to the Licensing Act 2003 Committee, Sub-Committees and Officers. This form of delegation is without prejudice to an Officer referring an application to a Sub-Committee, or a Sub-Committee to a full Committee, or a Committee to a full Council, if considered appropriate in the circumstances of any particular case.
- 8.4 The Licensing Authority's decision making process will be informed by the local area profile and will have particular regard to the proximity of gambling premises to schools, vulnerable adult centres, residential areas where there is a high concentration of families with children and areas of the Borough that are particularly attractive to children such as New Brighton.
- 8.5 Each application will be decided on its merits taking into consideration how the applicant can demonstrate that they can overcome concerns that the Licensing Objectives may not be met.

## **9.0 Premises Licences**

### General Principles

- 9.1 Premises Licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in Regulations issued by the Secretary of State.
- 9.2 The Licensing Authority are able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.
- 9.3 This Licensing Authority is aware that in making decisions about premises licences we should aim to permit the use of premises for gambling in so far as we think it is:
- In accordance with any relevant code of practice issued by the Gambling Commission
  - In accordance with any relevant Guidance issued by the Gambling Commission
  - Reasonably consistent with the Licensing Objectives
  - In accordance with this Statement of Licensing Principles

The Licensing Authority will not take into consideration whether there is demand for a particular gambling premises when making its decision.



- 9.4 It is appreciated that gambling can be an emotive subject but acknowledge that in accordance with Gambling Commission Guidance for Local Authorities, “moral objections to gambling are not a valid reason to reject applications for premises licences”.
- 9.5 Representations made in respect of applications should be based on the Licensing Objectives as set out at Page 1 of this Policy. It is important to note that the Licensing Objectives are different to those set out in The Licensing Act 2003 and do not include the prevention of public nuisance or public safety.
- 9.6 Premises is defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. It is however possible for a single building to be subject to more than one premises licence, providing that each licence is for a different part of the building and such different parts can be properly regarded as different premises.
- 9.7 The Licensing Authority will judge each case on its individual merits to decide as a matter of fact, whether different parts of a building can be properly regarded as being separate premises.
- 9.8 The Gambling Commission, in their guidance, do not consider that areas of a building that are artificially or temporarily separate for examples by ropes or movable partitions, can be properly regarded as different premises. This Licensing Authority support this view.
- 9.9 The location of the premises will clearly be an important consideration and a significant factor that the Licensing Authority will consider is whether the premises are genuinely separate premises that merit their own licence and are not artificially created part of what is readily identifiable as a single premises. The suitability of the division is likely to be a matter for discussion between the operator and the Licensing Officer. As stated above areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, will not properly be regarded as different premises.
- 9.10 The Licensing Authority make particular note of the Gambling Commission’s “Guidance to Licensing Authorities” which states that: Licensing Authorities should take particular care in considering application for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third Licensing Objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
  - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not

'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises without a permit.

- Customers should be able to participate in the activity named on the premises licence.

9.11 In determining whether premises are truly separate the Licensing Authority will consider the following factors:

- Do the premises have a separate registration for business rates?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

9.12 An issue that may arise when division of a premises is being considered is the nature of the unlicensed area from which a customer may access a licensed gambling premises. The precise nature of this public area will depend on the location and nature of the premises. As a Licensing Authority will need to consider whether the effect of any division is to create a machine shed-type environment with very large banks of machines, which is not the intention of the access conditions, or whether it creates a public environment with gambling facilities being made available.

9.13 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 9 set out the access provisions for each type of premises. The broad principle is that there can be no access from one licensed gambling premises to another, except between premises which allow access to those under the age of 18 and with the further exception that licensed betting premises may be accessed from other licensed betting premises. Under-18s can go into Family Entertainment Centres (FEC), tracks, pubs and some bingo clubs, so access is allowed between these types of premises.

9.14 The relevant access provisions for each premises type is as follows:

Type of Premises	Access Provisions
<b>Casinos</b>	<ul style="list-style-type: none"> <li>• <b>the principal entrance to the premises must be from a 'street'</b></li> <li>• <b>no entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons</b></li> <li>• <b>no customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.</b></li> </ul>
<b>Adult Gaming Centres (AGC)</b>	<ul style="list-style-type: none"> <li>• <b>no customer must be able to access the premises directly from any other licensed gambling premises</b></li> </ul>
<b>Betting Shops</b>	<ul style="list-style-type: none"> <li>• <b>access must be from a 'street' or from other</b></li> </ul>

	<p><b>premises with a betting premises licence</b></p> <ul style="list-style-type: none"> <li>• <b>no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premises.</b></li> </ul>
<b>Tracks</b>	<ul style="list-style-type: none"> <li>• <b>no customer must be able to access the premises directly from a casino or AGC</b></li> </ul>
<b>Bingo Premises</b>	<ul style="list-style-type: none"> <li>• <b>no customer must be able to access the premises directly from a casino, an AGC or a betting premises, other than a track</b></li> </ul>
<b>Family Entertainment Centres</b>	<ul style="list-style-type: none"> <li>• <b>no customer must be able to access the premises directly from a casino, an AGC or a betting premises, other than a track.</b></li> </ul>

9.15 This Authority will consider the above requirement and other relevant factors in making its decision, depending on all the circumstances of the case.

#### **10.0 Premises “ready for gambling”**

10.1 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the Licensing Authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

10.2 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

10.3 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this Authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

10.4 Applicants should note that this Authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

## **11.0 Location**

- 11.1 This Licensing Authority is aware that demand issues cannot be considered in relation to the location of premises but that considerations made in terms of the Licensing Objectives can be considered.
- 11.2 The Licensing Authority, in accordance with the Gambling Commission's "Guidance for Local Authorities", will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 11.3 This Authority has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such policy be decided upon regarding such areas where gambling premises should not be located, this policy statement will be updated.
- 11.4 It should be noted that any such future policy will not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how any potential concerns can be overcome.

## **12.0 Planning and Building Control**

- 12.1 In determining applications the Licensing Authority has a will undertake its duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, in effect those not related to gambling and the Licensing Objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.
- 12.2 When dealing with a Premises Licence application for finished buildings, the Licensing Authority will not take into account whether those buildings have or comply with the necessary planning or building consents. Nor will fire or health and safety risks be taken into account. Those matters should be dealt with under relevant Planning Control and building and other regulations, and will not form part of the consideration for the Premises Licence. Section 210 of the 2005 Act prevents Licensing Authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

## **13.0 Duplication with other Regulatory Regimes**

- 13.1 This Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. This Authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

## 14.0 Licensing Objectives

- 14.1 Premises Licences granted must be reasonably consistent with the Licensing Objectives. With regard to these Objectives, this Licensing Authority has considered the Gambling Commission's Guidance to Local Authorities and some comments are made below.
- 14.2 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.**  
This Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that the Licensing Authority should pay attention to the proposed location of gambling premises in terms of this Licensing Objective. Therefore, where an area has known high levels of organised crime, we will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable, such as, the provision of door supervisors. Responsible Authorities would however have the right to make representation with regard to such premises.
- 14.3 The Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether Police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. It should be noted that prevention of nuisance is not a Gambling Act Licensing Objective.
- 14.4 In considering licence applications, the Licensing Authority will particularly take into account the following:
- The design and layout of the premises
  - The training given to staff in crime prevention measures appropriate to those premises
  - Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed
  - Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks
  - The likelihood of any violence, public order or policing problem if the licence is granted
- 14.5 **Ensuring that gambling is conducted in a fair and open way.**  
This Licensing Authority is aware that the Gambling Commission has stated that it would generally not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed by the operator and personal licensing system.

- 14.6 Should this Licensing Authority suspect that gambling is not being conducted in a fair and open way this will be brought to the attention of the Gambling Commission.
- 14.7 Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 14.8 The Licensing Authority will have particular regard to whether staff are able to adequately supervise premises to prevent underage gambling.
- 14.9 Appropriate measures may include supervision of access points, segregation of areas, CCTV, the use of floor walkers, the position of counters etc.

If the operator fails to satisfy this Licensing Authority that the risks to underage gambling are sufficiently mitigated, it may be appropriate for us to conduct a review of the Premises Licence.

- 14.10 In reference to the term “vulnerable persons” we note that the Gambling Commission or statute law does not seek to offer a definition but the Commission states that “it will for regulatory purposes assume that this group includes:
- People who gamble more than they want to
  - People who gamble beyond their means
  - People who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs”.
- 14.11 This Licensing Authority will consider promotion of this Licensing Objective on a common sense, case by case basis. This Licensing Authority will interpret vulnerable persons in its widest possible concept and does not limit the definition to individuals who participate in gambling but recognises that it may include individuals who are affected by those who gamble, for example, children of adults who gamble beyond their means. This will be reflected in the local area profile and will be balanced with the legal requirement to aim to permit the use of premises for gambling. Whilst there is a presumption in favour of permitting the relevant premises to be used for gambling, this Licensing Authority may not do so unless satisfied that such use would be in accordance with the Guidance to Licensing Authorities, any relevant Commission Code of Practice, its own statement of Licensing Policy, and the Licensing Objectives. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

## **15.0 Conditions**

- 15.1 Any conditions attached to licences will be proportionate and will be:
- Relevant to the need to make the proposed building suitable as a gambling facility

- Directly related to the premises and the type of licence applied for
  - Fairly and reasonably related to the scale and type of premises
  - Reasonable in all other respects
- 15.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the Licensing Objectives can be met effectively.
- 15.3 This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the Licensing Objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 15.4 This Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
  - Only adults are admitted to the area where these machines are located
  - Access to the area where the machines are located is supervised
  - The area where these machines are located is arranged so that it can be observed by the staff or the licence holder
  - At the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18
- 15.5 These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 15.6 It is noted that there are conditions which the Licensing Authority cannot attach to Premises Licences, they are
- Any condition on the Premises Licence which makes it impossible to comply with an Operating Licence condition

- Conditions relating to gaming machine categories, numbers, or method of operation
- Conditions which provide that membership of a club or body be required. (The Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated)
- Conditions in relation to stakes, fees, winning or prizes

## **16.0 Door Supervisors**

- 16.1 The Gambling Commission advises in its “Guidance to Licensing Authorities” that if a Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.
- 16.2 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

## **17.0 Adult Gaming Centres**

- 17.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect an applicant to satisfy the Authority that there will be sufficient measures to ensure that persons under the age of 18 do not have access to the premises.
- 17.2 This Licensing Authority will expect applicants to offer their own measures to meet the Licensing Objectives, appropriate measures or licence conditions may cover issues such as:
- Proof of age schemes
  - CCTV
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours



- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

## **18.0 Licensed Family Entertainment Centres**

18.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

18.2 This Licensing Authority will expect applicants to offer their own measures to meet the Licensing Objectives, appropriate measures / licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

18.3 This Licensing Authority will, in accordance with the Gambling Commission's guidance, refer to the Commission to see any conditions that apply to Operating Licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences as well as the requirements under the Social Responsibility Code.

## **19.0 Casinos**

- 19.1 **No Casinos resolution** - This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

## **20.0 Bingo Premises**

- 20.1 This Licensing Authority notes that the Gambling Commission's Guidance states:

18.5 Licensing Authorities will need to satisfy themselves that Bingo can be played in any bingo premises for which they issue a Premises Licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

- 20.2 Children and young people are allowed into bingo premises; however they are not permitted to participate in the Bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.
- 20.3 If the Licensing Authority receives an application to vary a Premises Licence for bingo or betting in order to extend the opening hours, the Authority will need to satisfy itself that the reason for the application is in line with the requirements on primary gambling activity (i.e. the need for operating licence holders to ensure that the gambling activity appropriate to the licence type ('the primary activity' or 'the principal activity') is actually offered at those premises and not replaced by the making available of gaming machines). Therefore, the applicant should be able to demonstrate that the extension of the opening hours is not designed solely to benefit from the machine entitlement and activity which is ancillary to the primary activity of the premises, namely betting or bingo.

## **21.0 Bingo in Clubs and Alcohol Licensed Premises**

- 21.1 Bingo will be permitted on Alcohol Licensed Premises, and in Clubs and Miners' Welfare Institutes, under the allowances for exempt gaming in Part 12 of the Act. Where the level of Bingo played in these premises, under the exempt gaming allowances, reaches a certain threshold, it will no longer be authorised by these allowances, and a Bingo Operating Licence will have to be obtained from the Commission for future Bingo games. The aim of these provisions is to prevent Bingo becoming a predominant commercial activity on such non-gambling premises.
- 21.2 The threshold is that if the bingo played during any seven-day period exceeds £2,000 (either in money taken or prizes awarded) once a year, referred to as

“high turnover Bingo”. There is a legal duty on the licensee or club to inform the Commission if at any point its bingo in any seven-day period exceeds this threshold. That allows the Commission to monitor the bingo activity on the premises, and discuss with the relevant licensee or club the point at which a Bingo Operating Licence may be needed. A ‘high turnover period’ begins with the first day of the seven day period in which the threshold was exceeded and lasts for a year. If a second period of high turnover Bingo occurs within that year, a Bingo Operating Licence will be required. Where bingo is played in a Members Club under a Bingo Operating Licence no premises licence will be required.

- 21.3 The Commission will be informed if it comes to the attention of this Licensing Authority that alcohol-licensed premises or clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes, which makes it possible that the £2,000 in seven days is being exceeded.

## **22.0 Betting Premises**

- 22.1 **Betting machines** This Licensing Authority will, in accordance with the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.
- 22.2 It is not permissible for an operator to offer gaming machines on a premises which is licensed for non-remote betting but not to offer sufficient facilities for non-remote betting. A non-remote betting operating licence authorises its holder to ‘provide facilities for betting’ (s.65(2)(c) of the Act). Likewise, a betting premises licence authorises premises to be used for ‘the provision of facilities for betting...’ (s.150(1)(e) of the Act). The ability to make up to four gaming machines, within categories B2 – D, available is an additional authorisation conferred upon the holder of a betting premises licence (s.172(8) of the Act); it is not a free standing right to make gaming machines available for use. It follows that unless a betting premises operator offers sufficient facilities for betting it should not be making gaming machines available on the premises in question.
- 22.3 This Licensing Authority supports the Commission’s view that it is also important, in relation to the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling, that customers should be offered a balanced mix of betting and gaming machines in licensed betting premises.
- 22.4 Accordingly, an Operating Licence condition provides that gaming machines may be made available for use in Licensed Betting Premises only at times when there are also sufficient facilities for betting available. In this respect, such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn of the outcome and collect any winnings.

## **23.0 Travelling Fairs**

- 23.1 This Licensing Authority is responsible for deciding whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 23.2 This Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 23.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with its neighbouring Authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **24.0 Provisional Statements**

- 24.1 Developers may wish to apply to this Authority for Provisional Statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a Premises Licence. There is no need for the applicant to hold an Operating Licence in order to apply for a provisional statement.
- 24.2 Section 204 of the Gambling Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
  - expects to be altered; or
  - expects to acquire a right to occupy.
- 24.3 The process for considering an application for a provisional statement is the same as that for a Premises Licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible Authorities and interested parties may make representations and there are rights of appeal.
- 24.4 In contrast to the Premises Licence application, the applicant does not have to hold or have applied for an Operating Licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their Provisional application is made.
- 24.5 The holder of a Provisional Statement may then apply for a Premises Licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the Premises Licence application, and in terms of representations about

Premises Licence applications that follow the grant of a Provisional Statement, no further representations from relevant Authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

24.6 In addition, the Authority may refuse the Premises Licence (or grant it on terms different to those attached to the Provisional Statement) only by reference to matters:

- which could not have been raised by objectors at the Provisional Statement stage;
- which in the Authority's opinion reflect a change in the operator's circumstances; or
- where the Premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this Licensing Authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **25.0 Reviews**

25.1 Requests for a review of a Premises Licence can be made by interested parties or Responsible Authorities, or may be initiated by the Licensing Authority.

25.2 The 'aim to permit' framework provides wide scope for Licensing Authorities to review Premises Licences where there is an inherent conflict with the Commission's codes of practice and this Guidance, the licensing objectives or the licensing authorities own policy statement.

25.3 In relation to a class of premises, we may review the use made of premises and, in particular, the arrangements that Premises Licence holders have made to comply with licence conditions. In relation to these general reviews, it is likely that we will be acting as a result of concerns or complaints about particular types of premises or following an inspection of a premises which may result in them looking at, for example, default conditions that apply to that category of licence.

25.4 In relation to particular premises, we may review any matter connected with the use made of the premises if:

- we have reason to suspect that premises licence conditions are not being observed

- the premises is operating outside of the principles set out in the Licensing Authority's Policy Statement
  - there is evidence to suggest that compliance with the Licensing Objectives is at risk
  - for any other reason which gives us cause to believe that a Review may be appropriate, such as a complaint from a third party.
- 25.5 In particular, the Licensing Authority may also initiate a review of a Premises Licence on the grounds that a Premises Licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 25.6 A formal review would normally be at the end of a process of ensuring compliance by the operator(s) which might include an initial investigation by a Licensing Authority Officer, informal mediation or dispute resolution. If the concerns are not resolved then, after a formal review, the Licensing Authority may impose additional conditions or revoke the Licence.
- 25.7 The determination of whether a review should be carried out will give consideration to the following:
- In accordance with any relevant Code of Practice issued by the Gambling Commission
  - In accordance with any relevant guidance issued by the Gambling Commission
  - Reasonably consistent with the Licensing Objectives
  - In accordance with the Authority's Statement of Principles
- 25.8 The Licensing Authority will also take into consideration whether the request is either frivolous, vexatious or would certainly not cause this Authority to wish to alter/revoke/suspend the Licence. The Licensing Authority will also consider whether the representations made in the application for a Review are substantially the same as previous representations or requests for Review. In determining this matter, the Licensing Authority will take into account how much time has passed since any earlier application for a Review or since the licence was granted.
- 25.9 The Licensing Authority can also initiate a Review of a Licence on the basis of any reason which it thinks is appropriate.
- 25.10 Once a valid application for a Review has been received by the Licensing Authority, representations can be made by Responsible Authorities and Interested Parties during a 28 day period. This period begins 7 days after the application was received by the Licensing Authority, who will publish notice of the application within 7 days of receipt.

The Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

25.11 The purpose of the review will be to determine whether the Licensing Authority should take any action in relation to the Licence. If action is justified, the options open to the Licensing Authority are:-

- (a) add, remove or amend a licence condition imposed by the Licensing Authority;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

25.12 In determining what action, if any, should be taken following a review, the Licensing Authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

Once the review has been completed, the Licensing Authority must, as soon as possible, notify its decision to:

- the Licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the Chief Officer of Police or Chief Constable; and
- Her Majesty's Commissioners for Revenue and Customs

## PERMITS/TEMPORARY AND OCCASIONAL USE NOTICE

### 26.0 Unlicensed Family Entertainment Centre Gaming Machine Permits.

- 26.1 Unlicensed family entertainment centres (UFEC) are able to offer only category D machines in reliance on a Gaming Machine Permit. Any number of category D machines can be made available with such a permit, although there may be other considerations, such as fire regulations and health and safety, to take into account. Permits cannot be issued in respect of vessels or vehicles.
- 26.2 UFECs are premises which are 'wholly or mainly' used for making gaming machines available. The permit cannot therefore be granted for an entire shopping centre, airport or bowling alley, for example.
- 26.3 A permit lapses if the Licensing Authority informs the permit holder that the premises are not being used as an FEC.
- 26.4 If the operator wishes to make category C machines available in addition to category D machines, the Operator will need to apply for a 'Gaming Machine General Operating Licence (Family Entertainment Centre)' from the Commission and a premises licence from the licensing authority.
- 26.5 The Gambling Commission's Guidance states: ".....An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application. In accordance with the Guidance, this Licensing Authority will expect applicants to demonstrate:
- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs
  - That an applicant has no relevant convictions, those that are set out in Schedule 7 of the Act
  - That staff are trained to have a full understanding of the maximum stakes and prizes
- 26.6 We note that a Licensing Authority can grant or refuse a licence but cannot attach conditions to this type of permit.
- 26.7 This Licensing Authority will expect the applicant to submit a plan of the premises and show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.
- 26.8 The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for



staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

## **27.0 Premises Licensed to Sell Alcohol**

### **Automatic Entitlement: 2 Machines**

27.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- The person ceases to be the holder of the on-premises alcohol licence for the premises, the automatic entitlement to the two gaming machines also ceases. Whoever applies for the new premises alcohol licence would also need to apply under section 282(2), notifying the Licensing Authority of their intention to make the gaming machines available for use and paying the prescribed fee
- Provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives
- Gaming has taken place on the premises that breaches a condition of Section 282 for example the gaming machines have been made available that do not comply with requirements on the location and operation of gaming machines
- The premises are mainly used for gaming
- An offence under the Gambling Act has been committed on the premises

### **Permit: 3 or more machines**

27.2 If a Premises Licence Holder wishes to have more than 2 machines, then they need to apply for a permit and the Licensing Authority must consider that application based upon the Licensing Objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "*such matters as they think relevant.*"

27.3 This Licensing Authority considers that "such matters" will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that persons under the age of 18 do not have access to the adult only gaming machines.

27.4 Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices

and signage on the machines or in the premises may also help and are encouraged by this Authority. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

- 27.5 It is recognised that some alcohol licensed premises may apply for a Premises Licence for their non-alcohol licensed areas. Any such application would normally need to be applied for, and dealt with as an Adult Gaming Centre Premises Licence.
- 27.6 It should be noted that we as the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions other than these cannot be attached to a permit.
- 27.7 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.
- 27.8 The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Act has been committed. Before it cancels a permit the licensing authority must notify the holder, giving 21 days notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.

## **28.0 Prize Gaming Permits**

- 28.1 A prize gaming permit is a permit issued by the licensing authority to authorise the provision of facilities for gaming with prizes on specified premises.
- 28.2 An applicant for a Prize Gaming Permit should set out the types of gaming that he or she is intending to offer, a plan of the premises and the applicant should be able to demonstrate:
- That they understand the limits to stakes and prizes that are set out in Regulations
  - That the gaming offered is within the law
  - Clear policies that outline the steps to be taken to protect children from harm.
- 28.3 In making its decision on an application for this type of permit the Licensing Authority does not need, but may, have regard to the Licensing Objectives but must have regard to any Gambling Commission Guidance. The Licensing

Authority will consult the Safeguarding Children Board where it considers it appropriate to do so.

28.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the Licensing Authority cannot attach conditions. The conditions in the Act are:

- The limits on participation fees, as set out in regulations, must be complied with
- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day
- The game must be played and completed on the day the chances are allocated
- The result of the game must be made public in the premises on the day that it is played
- The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize)
- Participation in the gaming must not entitle the player to take part in any other gambling

## **29.0 Application for Club Gaming and Club Machines Permits**

29.1 The Licensing Authority may only refuse an application on the grounds that:

- The applicant does not fulfil the requirements for a Members' or Commercial Club or Miners' Welfare Institute and therefore is not entitled to receive the type of permit for which it has applied
- The applicant's premises are used wholly or mainly by children and/or young persons
- An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- A permit held by the applicant has been cancelled in the previous ten years
- An objection has been lodged by the Commission or the police

29.2 If the Authority is satisfied that either or the first two points is the case, it must refuse the application. Licensing Authorities shall have regard to relevant guidance issued by the Commission and (subject to that guidance), the Licensing Objectives.

- 29.3 In cases where an objection has been lodged by the Commission or the Merseyside Police, the Licensing Authority is obliged to determine whether the objection is valid.
- 29.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10).
- 29.5 As the Gambling Commission's Guidance for Local Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the Police and the grounds upon which an Authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:
- That the club is established primarily for gaming, other than gaming prescribed by regulations under Section 266 of the Gambling Act 2005.
  - That in addition to the prescribed gaming, the applicant provides facilities for other gaming.
  - That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 29.6 **Club Gaming Permit**
- 29.7 The Licensing Authority will seek to satisfy itself that the Club meets the requirements of the Act to obtain a Club Gaming Permit. Therefore applicants will be asked to supply sufficient information and documents to enable the Licensing Authority to determine whether the Club is a genuine Members Club.
- 29.8 In determining whether a club is a genuine Members' Club, the Licensing Authority will take account of a number of matters, such as:
- Is the primary purpose of the club's activities something other than the provision of gaming to its members?
  - Are the profits retained in the Club for the benefit of the members?
  - Are there 25 or more members?
  - Are there genuine domestic addresses on the register of members? Are domestic addresses listed for every member? Are members local to the club?
  - Do members participate in the activities of the club via the internet?
  - What information is provided on the Club's website?
  - Do guest arrangements link a member to every guest? Is there evidence of a signing-in register for guests?

- Is the 48 hour rule between applying for membership and participating in any gaming properly applied?
- Are there annual accounts for more than one year?
- How is the Club advertised and listed in directories, including on the internet?
- Are children permitted into the Club?
- Does the Club have a constitution and can it provide evidence that the constitution was approved by the members of the Club?
- Is there a list of committee members and evidence of their election by the members of the Club? Can the Club provide minutes of committee and other meetings?

29.9 The constitution of the Club could also indicate whether it is a legitimate Members' Club. Amongst the things the Authority will consider when examining the constitution are the following:

- Who makes commercial decisions on behalf of the Club and what are the governance arrangements? Clubs are normally run by a Committee made up of members of the Club, rather than individuals or managers, who make decisions on behalf of the members. There will normally be a system (consultation, voting, paper ballots, annual general meetings, special meetings, etc) which allows members to be involved in major decisions concerning the management and running of the Club. Such arrangements would normally be spelt out in the Constitution
- Are the aims of the Club set out in the Constitution? A lack of aims or aims which involve gaming could indicate that it is not a genuine Members' Club
- Are there shareholders or members? Shareholders would indicate a business enterprise linked to a Commercial Club
- Is the members' Club permanently established? Clubs can't be temporary and must be permanent in nature
- Can people join with annual or quarterly membership? This would indicate that the Club is permanent in nature
- Are there long term membership benefits? This would also indicate that the Club is permanent in nature and that it is a genuine Members' Club. The benefits of membership would normally be set out in the rules of membership.

29.10 Other than Bridge and Whist Clubs, which are separately catered for in regulations, a club cannot be established wholly or mainly for purposes of gaming. In applying for a Club Gaming Permit, a club must therefore provide

substantial evidence of activities other than gaming. Questions that the Licensing Authority will consider include:

- How many nights is gaming made available?
- Is the gaming advertised?
- What are the stakes and prizes offered?
- Is there evidence of leagues with weekly/monthly/annual winners?
- Is there evidence of non-playing members?
- Are there teaching sessions to promote gaming, such as poker?
- Is there tie-in with other clubs offering gaming, such as poker, through tournaments or leagues?
- Is there sponsorship by gaming organisations, for example on-line poker providers?
- Are participation fees within limits?

The Authority will undertake a visit to the premises before granting of the permit to assist the Licensing Officer to understand how the club will operate.

#### 29.11 **Club Machine Permit**

29.12 The Licensing Authority will seek to satisfy itself that the gaming on offer meets the conditions set out in the Act and relevant regulations. To do this, the Licensing Authority will ask questions of the applicant or ensure that the exempt gaming complies with these conditions. The conditions are:

- There must be no rake from the pot (that is, the organiser cannot take any money from the prize fund, or deduct money from the stakes or winnings). Licensing Authorities should examine the records for gaming or, if possible, observe or get statements about the pot.
- There must be no side bets. This is probably only going to be possible to verify through observation.
- Participation fees must be within the limits prescribed in the regulations. Is there evidence of excess participation fees in club records, adverts for gaming in or outside of the club or from complaints?
- Prizes must be within the limits prescribed in the regulations. Is there evidence that they are excessive from records at the club, in adverts for gaming, etc?

- Where the games are poker tournaments or leagues, the Licensing Authority will consult part 29 of the Guidance which sets out how the law applies to poker. This should help the Licensing Authority to determine whether the gaming is within the law from evidence such as records in the club and adverts for gaming.

### **30.0 Temporary Use Notices**

30.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

30.2 The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

30.3 The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 sets out the restrictions on the type of gambling to be offered under a Temporary Use Notice. These restrictions are:

- it can only be used to offer gambling of a form authorised by the operator's operating licence, and consideration should therefore be given as to whether the form of gambling being offered on the premises will be remote, non-remote, or both
- gambling under a Temporary Use Notice may only be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises
- it can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner
- gaming machines may not be made available under a Temporary Use Notice

30.4 A Temporary Use Notice must be lodged with the Licensing Authority not less than three months and one day before the day on which the gambling event will begin. A fee is payable to the Licensing Authority to whom the notification is sent. The application must be copied to:

- the Commission
- the police
- HM Commissioners for Revenue and Customs
- if applicable, any other licensing authority in whose area the premises are also situated

- 30.5 The person who is giving the Temporary Use Notice must ensure that the notice and copies are with the recipients within seven days of the date of the notice.
- 30.6 The Licensing Authority and the other bodies to which the notice is copied should consider whether they wish to give a notice of objection. In considering whether to do so, they must have regard to the Licensing Objectives and if they consider that the gambling should not take place, or only with modifications, they must give a notice of objection to the person who gave the Temporary Use Notice. Such a notice must be copied to the Licensing Authority. The notice of objection and the copy to the Licensing Authority must be given within 14 days, beginning with the date on which the Temporary Use Notice is given. An objection may be withdrawn by giving written notice to those to whom the notice of objection was sent and copied.
- 30.7 If objections are received, the Licensing Authority must hold a hearing to listen to representations from the person who gave the Temporary Use Notice, all the objectors and any person who was entitled to receive a copy of the notice. If all the participants agree that a hearing is unnecessary, it may be dispensed with.
- 30.8 This Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's "Guidance to Licensing Authorities".

### **31.0 Occasional Use Notices**

- 31.1 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.





## Appendix A - Scheme of Delegation

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING ACT 2003 COMMITTEE	SUB-COMMITTEE OF LICENSING ACT 2003 COMMITTEE	OFFICERS
Three year Licensing policy	X			
Policy not to permit casinos	X			
Fee Setting – when appropriate		X		
Application for premises licences			Where Representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a Variation to a licence			Where Representations have been received and not withdrawn	Where no Representations received/representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence			X	
Application for club gaming/ club machine permits			Where representations have been received and not withdrawn	Where no objections received/ Representations have been withdrawn
Cancellation of club Gaming/ club machine Permits			X	
Applications for other permits				X
Cancellation of licensed premises gaming Machine permits				X
Consideration of temporary use notice				X
Decision to give a counter notice to a temporary use notice			X	
Determination as to whether a person is an Interested Party				X
Determination as to whether representations are relevant				X
Determination as whether a Representation if frivolous, vexatious or repetitive				X



## **Appendix B – List of Consultees**

This draft document is being circulated to a number of consultees including those listed below. Should you consider there are any other bodies or individuals who should be consulted please contact: [licensing@wirral.gov.uk](mailto:licensing@wirral.gov.uk)

- Elected Councillors, Metropolitan Borough of Wirral
- Head of Regeneration and Environment, Metropolitan Borough of Wirral
- Trading Standards Manager, Metropolitan Borough of Wirral
- Environmental Health Manager, Metropolitan Borough of Wirral
- Planning Officer, Metropolitan Borough of Wirral
- Local Safe Guarding Children Board
- Wirral Federation of Tenants and Residents Association
- The Gambling Commission
- The Chief Officer of Police
- The Fire and Rescue Authority
- H. M. Revenue & Customs
- Public Health
- Citizen's Advice Bureau
- The Bingo Association
- Association of British Bookmakers
- British Casino Association
- Casino Operators Association of the UK
- British Holiday & Home Parks Association
- British Beer & Pub Association
- Gaming Machine Suppliers
- All persons who hold a Betting Office Premises Licence
- All persons who hold a Bingo Premises Licence
- Amusement Arcades that hold Adult Gaming Centre and Family Entertainment Centre Premises Licences
- Representatives holders of various licences



## **Appendix C – Responsible Authorities**

### **Environmental Health (Pollution Control)**

Environmental Health  
Town Hall  
Brighton Street  
Wallasey  
CH44 8ED

### **Body Responsible for the Protection of Children from Harm**

Local Safe Guarding Children Board  
Hamilton Building  
Conway Street  
Birkenhead  
CH41 4FD

### **Chief Officer of Merseyside Police**

Police Licensing Section  
Walton Lane Police Station  
Walton Lane  
Liverpool  
L4 5XF

### **Licensing Authority**

Wirral Borough Council  
Town Hall  
Brighton Street  
Wallasey  
CH44 8ED

### **Planning Authority**

Development Control  
Town Hall  
Brighton Street  
Wallasey  
CH44 8ED

### **Fire and Rescue Authority**

Merseyside Fire & Rescue Service  
Wirral District Fire Safety  
The Fire Station  
Mill Lane  
Wallasey  
CH44 5UE

### **Environmental Health (Health & Safety)**

Environmental Health  
Town Hall  
Brighton Street  
Wallasey  
CH44 8ED

### **H.M. Revenue & Customs**

Portcullis House  
21 India Street  
Glasgow  
G2 4PZ

### **The Gambling Commission**

Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP